

THE HONORABLE BRIAN A. TSUCHIDA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHRISTOPHER J. HADNAGY, an
individual; and SOCIAL-ENGINEER,
LLC, a Pennsylvania limited liability
company,

Plaintiffs,

v.

JEFF MOSS, an individual; DEF
CON COMMUNICATIONS, INC., a
Washington corporation; and DOES 1-
10; and ROE ENTITIES 1-10,
inclusive,

Defendants.

No. 2:23-cv-01932-BAT

**DEFENDANTS' REPLY IN SUPPORT
OF MOTION FOR SUMMARY
JUDGMENT**

**Noted For Consideration: March 21,
2025**

ORAL ARGUMENT REQUESTED

DEFENDANTS' REPLY IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT – 1 (No. 2:23-cv-01932-
BAT)

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DEFENDANTS' REPLY IN SUPPORT OF MOTION
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INTRODUCTION

Defendants Def Con Communications, Inc. and Jeff Moss (collectively, “Def Con”) banned Plaintiffs Christopher Hadnagy and Social-Engineer LLC (“S-E,” and collectively “Hadnagy”) from the Def Con conference because of Hadnagy’s pervasive harassment of many people over many years. The undisputed evidence shows Hadnagy’s fixation on the bodies of his female employees, volunteers, and conference participants; his violent temper; his pattern of berating and insulting employees; his relentless attacks on women he perceives as having crossed him professionally; his open sexual fetishization of Asian women; his inappropriate and sexualized trainings; and his brandishing a switchblade at work and at the Def Con conference. Hadnagy disputes none of this because he cannot. The testimony of the brave women who described Hadnagy’s mistreatment of them is uncontroverted, and Hadnagy’s own documents (indeed, his own words) establish much of the above. Def Con appropriately banned Hadnagy for violating its Code of Conduct and thereafter announced his ban publicly.

Faced with an astonishingly long record of undisputed misconduct over a period of many years, Hadnagy has no choice but to dissemble, obfuscate, and mislead. He repeatedly mischaracterizes the factual record. He gets the law wrong on key elements of defamation. He attempts to manufacture an entirely new defamation claim against Def Con, one he had never previously pleaded (or even attempted to plead), in a desperate Hail Mary to save his lawsuit. And he ignores major portions of the Motion for Summary Judgment (the “Motion”) both legally and factually because he has no good-faith response—including, as especially relevant here, the fact that the Court *has already explicitly rejected* his argument that the Transparency Report and the Transparency Update imply sexual misconduct.

1 No reasonable juror could find that Def Con defamed Hadnagy in the
 2 Transparency Report and Transparency Update. The Court should grant summary
 3 judgment.

4 **RESPONSE TO PLAINTIFF’S STATEMENT OF FACTS**

5 Def Con sets forth below the undisputed facts demonstrating Hadnagy’s
 6 violations of the Code of Conduct and establishing that summary judgment is
 7 appropriate. Def Con also identifies Hadnagy’s mischaracterizations of the record,
 8 none of which—even if meritorious, which they manifestly are not—create a genuine
 9 issue of *material* fact about the truthfulness of Def Con’s statements.

10 **A. Hadnagy’s undisputed misconduct is jaw-dropping.**

11 There’s simply no doubt that Hadnagy violated the Code of Conduct, and he
 12 doesn’t even try to contend otherwise. The Code of Conduct prohibits “harassment,”
 13 which includes “deliberate intimidation and targeting individuals in a manner that
 14 makes them feel uncomfortable, unwelcome, or afraid.” ECF 84 at 11. The undisputed
 15 evidence overwhelmingly shows that Hadnagy engaged in “harassment” of many
 16 people over many years.

17 **Maxie Reynolds:** Hadnagy does not dispute his long-running, malicious, and
 18 vindictive conduct towards his former employee Maxie Reynolds. He concedes his
 19 fixation on her appearance (ECF 83 at 8:17–23); his multi-pronged retaliation against
 20 her when she quit S-E, including inducing prominent podcasting host Jack Rhysider
 21 to cancel her episode (*id.* at 9:1–19); his investigation of her professional credentials
 22 under false pretenses (*id.* at 18:12–18); his personal attacks on her as “poison,” a
 23 “psychopath,” and an “awful psycho bitch” (*id.* at 18:24–19:12); and his repeated
 24 statements to third parties that Reynolds “took work” from S-E and “started a
 25 competing company,” which Hadnagy has since admitted under oath were false (*id.*
 26 at 9:15–19, 19:5–14).

1 **Michele Fincher:** Hadnagy does not dispute Fincher’s testimony that he
 2 repeatedly referred to her as a “hot Asian” and talked about how she should wear
 3 high heels (ECF 83 at 12:3–5); that he regularly bullied, berated, and screamed at S-
 4 E employees (*id.* at 12:12–21); and that Hadnagy’s students regularly approached
 5 Fincher to express discomfort with Hadnagy’s sexualized trainings (*id.* at 12:22–
 6 13:4).

7 **Cat Murdock:** Hadnagy does not dispute Murdock’s testimony regarding his
 8 explosive and hair-trigger temper in the workplace (ECF 83 at 13:17–19); that he was
 9 so angry from Murdock correcting his pronunciation of a Middle Eastern man’s name
 10 that she physically feared for her safety (*id.* at 13:20–22); that he threw a phone at
 11 her (*id.* at 13:24–25); that he regularly “joked” by pulling out a switchblade and
 12 threatening to stab people with it and by threatening to throat-punch people (*id.* at
 13 13:25–14:4); and that he commonly belittled his employees, calling them “stupid,”
 14 “dumb,” and “morons” (*id.* at 14:5–8).¹

15 **Jess Levine:** Hadnagy does not dispute Levine’s testimony that she witnessed
 16 Hadnagy drunkenly brandishing his switchblade and “joking” about stabbing people
 17 with it at Def Con (ECF 83 at 15:3–8); that Hadnagy angrily stabbed his knife into
 18 his desk during a video call with Levine (*id.* at 15:8–9); that Hadnagy berated her to
 19 the points of tears, including calling her work or performance “worthless” (*id.* at
 20 15:11–14); and that the North Carolina Department of Labor cited Hadnagy for
 21 unlawfully withholding Levine’s final paycheck (*id.* at 15:20–16:2).

22 **Sam Gamble:** Hadnagy does not dispute Gamble’s testimony that he regularly
 23 commented on her physical appearance in a way that made her feel uncomfortable
 24 (ECF 83 at 20:13–18); that he made explicit sexual comments to Gamble on an
 25

26 ¹ Nor does Hadnagy dispute his own extensive documentation where he repeatedly
 admits mistreating Murdock as an S-E employee. *See* ECF 83 at 14:21 n.2.

1 October 2021 business trip (*id.* at 20:18–21); that he gave Gamble an unwanted kiss
2 on the forehead outside her hotel room (*id.* at 20:21–23); and that he solicited
3 information from Gamble about her bra size, underwear size, pubic hair, and age at
4 which she started shaving her pubic hair as part of a putative “sting” operation that
5 Hadnagy’s Innocent Lives Foundation was not actually permitted to perform (*id.* at
6 20:24–21:8).

7 **Geoffrey Vaughan:** Hadnagy does not dispute the veracity or accuracy of
8 Vaughan’s September 30, 2016, emails regarding Hadnagy’s inappropriate behavior
9 during a training seminar, including repeated discussion of fetish pornography (ECF
10 82 at 4); repeatedly referencing 1970s pornography and playing porn music in class
11 (*id.* at 5); brandishing a switchblade and threatening to “ball-slap” attendees with it
12 (*id.* at 4–5); and the comment “boobs have super powers” regarding women in social
13 engineering (*id.* at 5).

14 **Undisputed documents:** Hadnagy does not dispute the veracity or accuracy
15 of *any* of Def Con’s summary judgment materials, including that Hadnagy regularly
16 commented on the sexual attractiveness of Asians and drew a rebuke from his own
17 Asian-American COO (ECF 83 at 21:4–14); that he regularly commented on the
18 physical appearance of his former employees, volunteers, and conference attendees
19 (*id.* at 21:16–22:3); that he received complaints about his sexualized training sessions
20 going back to 2015 (*id.* at 22:5–16); and that Hadnagy’s own third-party DEI report
21 warned that Hadnagy’s workplace behavior “could lead to allegations of hostile work
22 environment and harassment” (*id.* at 22:18–23:4).

23 **Hadnagy’s own testimony:** Last, but certainly not least, *Hadnagy himself*
24 repeatedly testified that his behavior was inappropriate or could be perceived as such
25 by a reasonable person. ECF 83 at 35:11–36:4.
26

B. Hadnagy’s manufactured factual “disputes.”

Considering the above, Hadnagy’s various sleights of hand regarding the record aren’t surprising. He has no choice but to throw things at the wall and hope something sticks. But none of his factual “disputes” have merit, and even if they did, none of them are *material* disputes as Rule 56(a) requires.

1. Kevin Sugihara.

Hadnagy’s Response asserts for the *very first time*, despite nearly three years of litigation, that Def Con is liable for the putative social media posts of a Def Con volunteer named Kevin Sugihara. ECF 98 at 3:3–22. The legal impropriety is patent (*see* Argument Section I *infra*), and the factual basis is nonexistent.

First, Hadnagy relies on unauthenticated hearsay—screenshots of Sugihara’s ostensible social media posts. *See* ECF 99 at 8. This is not admissible evidence on summary judgment under these circumstances, and Def Con objects to it.

Second, there is no evidence Moss was even aware of (much less ratified) Sugihara’s putative comments. Hadnagy’s statement that Moss “gave a ‘thumbs up’ in response to Sugihara’s “Weinstein comment” is flagrantly untrue. *See* ECF 98 at 3:11–13. According to Hadnagy, Sugihara called Hadnagy “this industry’s Weinstein” in the r/Defcon forum on September 8, 2022. ECF 99 at 52. There is no evidence that Moss “gave a ‘thumbs up’” to that comment; there is no evidence he saw it or was even aware of it. On March 29, 2024, almost two years after Sugihara’s “Weinstein comment” on r/Defcon, Moss, Sugihara, and *at least* two other individuals privately texted about the Court’s ruling on Def Con’s motion to dismiss, and Sugihara texted a quote *from the ruling* to Moss and others, which someone—not necessarily Moss—acknowledged with a “thumbs up” emoji. ECF 101 at 16–17. Nothing in this exchange indicates Moss’s awareness of or agreement with Sugihara’s putative comments on September 8, 2022.

1 And finally, none of this is relevant to Hadnagý's *actually pleaded* defamation
 2 claim, which he predicates on the Transparency Report and Transparency Update,
 3 and which never once alleges Sugihara is Def Con's agent or that *Sugihara's*
 4 statements damaged Hadnagý. *See generally* Compl. It's a complete smokescreen and
 5 appropriately disregarded.

6 **2. Neil Wyler as Def Con's mediator.**

7 Hadnagý argues at length that Neil Wyler was not acting on Def Con's behalf
 8 when Wyler and Hadnagý spoke in August and September 2021. *See* ECF 98 at 9:18–
 9 20, 19:11–20:8. From this he contends that Def Con defamed him by saying that
 10 someone from the organization spoke with him about the allegations. *Id.* at 29:12–19.
 11 This is baseless.

12 It is undisputed that Moss deputized Wyler to talk to Hadnagý on Def Con's
 13 behalf about Reynolds's allegations; that Wyler is part of a core "inner circle" at Def
 14 Con; and that Wyler reported back to Moss regarding Wyler's conversations with
 15 Hadnagý. *See* ECF 84 at 202–03, 217–20, and 270–71. It is likewise undisputed that
 16 Hadnagý himself perceived Wyler as acting on Def Con's behalf. *See, e.g.,* ECF 84 at
 17 234 (Hadnagý asking Wyler, "What I will need to know is what [Black Hat] and [Def
 18 Con] plan with this info?" in response to Wyler's initial reach-out). Hadnagý testified
 19 that Wyler told him on their initial August 26, 2021, call that he was not acting on
 20 Def Con's behalf (*see* ECF 101 at 111–12); but even accepting this as true, Hadnagý
 21 indisputably subsequently understood that Wyler was acting on Def Con's behalf. *See*
 22 ECF 84 at 248 (Hadnagý stating on February 24, 2022, "Yep you were defcon's
 23 mediator[.]")

24 Plus, Hadnagý indisputably exchanged emails and direct messages *with Moss*
 25 about the allegations and Hadnagý's ban. *See, e.g.,* ECF 84 at 578–81; *see also* ECF
 26 83 at 16:20–17:2. Hadnagý's position requires the Court to disregard Wyler's multiple

1 conversations with Hadnagy on Def Con’s behalf *and* Moss’s direct electronic
 2 communications with Hadnagy to conclude Def Con did not “speak” with Hadnagy
 3 about the allegations. That’s not a reasonable interpretation of the undisputed facts.

4 **3. Details about the September 7, 2021, Zoom call.**

5 It is undisputed that on September 7, 2021, approximately 15-20 people
 6 participated in a call with Def Con, where they shared experiences regarding
 7 Hadnagy that Moss contemporaneously described as “[b]rutal stories” of “vengeful”
 8 and “abusive” behavior. ECF 83 at 11:15–22. Because Hadnagy cannot dispute the
 9 substance of this case-dispositive call, he instead attempts to cloud the record with
 10 irrelevancies and misrepresentations.

11 *First*, Hadnagy argues that it’s unclear whether the call was a phone call or a
 12 Zoom call. ECF 98 at 10:8–11:11. But the undisputed evidence is that the *call*
 13 *happened*, and the platform is completely irrelevant.

14 *Second*, Hadnagy represents that “the only dial-in number produced by Def
 15 Con is dated . . . nearly a month after the ban announcement.” ECF 98 at 11:1–11.
 16 This is utterly false. On January 29, 2025, counsel for Def Con sent counsel for
 17 Hadnagy the September 7, 2021, Zoom invitation at counsel for Hadnagy’s request.
 18 *See* Supplemental Declaration of Matt Mertens (“Supp. Mertens Decl.”) ¶ 2, Ex. A.

19 *Third*, Hadnagy argues that Def Con must not have known who the reporting
 20 parties were (and thus, apparently, that the September 7, 2021, call never took place)
 21 because Def Con did not disclose the reporting parties on their November 21, 2023,
 22 initial disclosures. ECF 98 at 12:2–5. This is an untenable position. On May 28, 2024,
 23 counsel for Def Con told counsel for Hadnagy that Def Con was not disclosing the
 24 reporting parties’ names until the Court entered a protective order because the
 25 reporting parties feared Hadnagy’s retaliation. Supp. Mertens Decl. ¶ 3, Ex. B. On
 26 June 10, 2024, the Court entered the stipulated protective order; and *just three days*

1 *later*, Def Con provided amended discovery responses containing the names of the
2 reporting parties. *Id.* ¶ 4, Ex. C.

3 *Fourth*, Hadnagy argues that Fincher did not report Hadnagy on the call, but
4 he is wrong. ECF 98 at 12:6–14. Fincher, Reynolds, Murdock, and Wyler all testified
5 that Fincher shared her experiences with Hadnagy on the call. *Id.* ¶¶ 5-8, Ex. D at
6 58:17-60:13; Ex. E at 92:23-93:9, 99:15-100:16, and 107:9-22; Ex. F at 130:12-13; and
7 Ex. G at 111:19-114:13. While Moss testified that Fincher did not report any Code of
8 Conduct violations on the call, he also testified that these incidents were “a while ago”
9 and he doesn’t “remember specifically who said what.” *Id.* ¶ 9, Ex. H at 136:18-24.
10 Moss’s testimony is insufficient to create a *genuine* issue of material fact on Fincher’s
11 participation in the call.²

12 *Fifth*, Hadnagy argues that Murdock must not have participated on the call
13 because of baseless inferences he draws from other documents and testimony. *See*
14 ECF 98 at 12:18–13:13. But Murdock testified that she participated in the call, and
15 her testimony is undisputed. Supp. Mertens Decl. ¶ 7, Ex. F at 128:25-129:7.

16 *Sixth*, Hadnagy argues that Levine contradicts herself regarding her
17 participation in the September 7, 2021, call. ECF 98 at 13:14–23. She does not, as
18 there were two calls. For the first call on September 7, 2021, Levine was unable to
19 attend, and Murdock read Levine’s statement on her behalf. ECF 83 at 15:1–2. There
20 was a second call on or about March 5, 2022, to check in after Hadnagy’s February
21 2022 ban, and Levine participated in this call. Supp. Mertens Decl. ¶ 6, Ex. E at
22 97:12-98:22; ¶ 11, Ex. K at 76:2-10; *see also* ECF 101 at 71.

23
24
25 ² Hadnagy also argues that counsel for Def Con “refused to produce responsive
26 documents” on Fincher’s behalf. ECF 98 at 12:14–17. Yet *again*, this is false. *See*
Supp. Mertens Decl. ¶ 10, Exs. I and J (November 14, 2024, email to counsel for
Hadnagy providing a link to “the documents produced by Ms. Fincher pursuant to the
subpoena.”)

1 *Seventh*, Hadnagy argues that the witnesses have provided conflicting
 2 accounts regarding what was shared on the September 7, 2021, call. ECF 98 at 13:23–
 3 14:7. But contrary to Hadnagy’s assertions, Wyler did not testify that nobody
 4 mentioned a knife on the call, but rather than he *did not recall* anyone mentioning a
 5 knife. *See* ECF 101 at 94–95. This does not contradict Levine and Murdock’s
 6 testimony that they *did* share about Hadnagy’s intimidating display of his
 7 switchblade. The same is true for Hadnagy’s sexual fetishization of Asians. Wyler
 8 stating that he doesn’t “recall anything specific in that regard” does not contradict
 9 Fincher’s testimony that she shared Hadnagy’s fetishization of her as a “hot Asian”
 10 on the call. And of course, the vast majority of what the participants shared with Def
 11 Con is *completely undisputed* and far more than enough to find that Hadnagy violated
 12 the Code of Conduct. *See* 6:17–7:21 above; *see also* ECF 83 at 16:7–19 (setting forth
 13 Moss and Wyler’s reactions to the September 7, 2021, call and reasons for believing
 14 the participants).

15 **ARGUMENT**

16 Hadnagy has failed to meet his burden of establishing a prima facie defamation
 17 case, consisting of *specific, material facts*, that would allow a jury to find that
 18 defamation exists. *See LaMon v. Butler*, 112 Wash. 2d 193, 197, 770 P.2d 1027, 1029
 19 (1989). Hadnagy has not introduced sufficient evidence to prove that the
 20 Transparency Report and Transparency Update were false or that Def Con was at
 21 fault in issuing them.

22 **I. Def Con cannot be held liable for newly raised legal theories about** 23 **the conduct of a volunteer.**

24 Hadnagy had every opportunity to raise the Sugihara-based defamation theory
 25 in his four (attempted) complaints, as he knew of the putative statements by not later
 26 than September 14, 2022. *See* ECF 99 at 8. Having failed to timely raise this theory,

he cannot do so at summary judgment. *See, e.g., Wasco Prods., Inc. v. Southwall Techs., Inc.*, 435 F.3d 989, 992 (9th Cir. 2006) (“Simply put, summary judgment is not a procedural second chance to flesh out inadequate pleadings.”); *Walker v. State Farm Fire & Cas. Co.*, No. 2:24-CV-00048-MKD, 2025 WL 35966, at *14 n.4 (E.D. Wash. Jan. 6, 2025) (holding that plaintiff cannot raise new theory of liability in response to motion for summary judgment that was not raised in complaint); *Wilson v. JPMorgan Chase Bank NA*, No. 2:23-AP-1073, 2024 WL 4336453, at *8 (W.D. Wash. Sept. 26, 2024) (similar); *Nocita v. Leal*, No. 3:22-CV-5741-TLF, 2024 WL 3226722, at *5 (W.D. Wash. June 28, 2024) (similar).

II. Hadnagy has not made a prima facie case for the falsity of any statement.

As a threshold legal issue, Hadnagy fails to grasp that truth is a *complete defense* to defamation. *See* ECF 98 at 30:19–32:13; *see also LaMon v. Butler*, 44 Wash. App. 654, 659, 722 P.2d 1373, 1377 (1986), *aff’d*, 110 Wash. 2d 216, 751 P.2d 842 (1988). “[T]he truth of an alleged defamatory statement must be measured ‘as of the time of the defamatory publication.’” *LaMon*, 44 Wash. App. at 659 (quoting Restatement (Second) of Torts § 581A, cmt. g (1977)). *If the defamatory matter is true, it is immaterial that the person who publishes it believes it to be false; it is enough that it turns out to be true.* Restatement (Second) of Torts § 581A, cmt. h (emphasis added). In other words, whether a statement is true may involve the consideration of evidence *not within the speaker’s knowledge at the time of the statement*. The Restatement confirms that Def Con may rely on information revealed in discovery to show that the Transparency Report and Transparency Update were truthful.

Hadnagy misleadingly cites the *Point Ruston* decision to argue Def Con cannot rely on information obtained after the fact to prove the statements were truthful. ECF 98 at 31:1–6. But the quoted language from *Point Ruston* discusses the application of

1 an actual malice standard, where the defendants' *belief* in the truth of the statements
 2 when made was relevant to determining actual malice. *See Point Ruston, LLC v. Pac.*
 3 *Nw. Reg'l Council of the United Bhd. of Carpenters & Joiners of Am.*, No. C09-
 4 5232BHS, 2010 WL 3732984, at *6 (W.D. Wash. Sept. 13, 2010). That case has
 5 nothing to do with truth as a complete defense to defamation.

6 Hadnagy also misapprehends the "falsity" element of defamation. In analyzing
 7 a statement for falsity, "the question is not whether the statement is literally true
 8 but, rather, whether the statement is substantially true," or whether "the gist of the
 9 story, the portion that carries the 'sting,' is true." *Sisley v. Seattle Sch. Dist. No. 1*,
 10 171 Wash. App. 227, 234, 286 P.3d 974, 978 (2012) (cleaned up). Where a statement's
 11 "gist or substance . . . when considered as a whole" is true, then summary judgment
 12 is appropriate. *See Mohr v. Grant*, 153 Wash. 2d 812, 825, 108 P.3d 768, 775 (2005).

13 **A. The Transparency Report is true and thus not defamatory.**

14 Applying the two legal standards above, Hadnagy fails to refute the
 15 truthfulness of the Transparency Report, which provides:

16 We received multiple [Code of Conduct] violation reports about a DEF
 17 CON village leader, Chris Hadnagy of the SE Village. After
 18 conversations with the reporting parties and Chris, we are confident
 19 that the severity of the transgressions merits a ban from Def Con.

ECF 84 at 4.

20 *First*, it is irrefutable that Defendants "received multiple CoC violation
 21 reports" about Hadnagy. *See* ECF 83 at 26:20–27:11 (explaining at least a dozen
 22 individuals reported similar experiences with Hadnagy to Def Con in September
 23 2021). *Second*, there is no doubt that Defendants were "confident the severity of the
 24 transgressions merit[ed] a ban from Def Con." *See id.* at 28:15–29:7 (detailing conduct
 25 relayed to Def Con on September 2021 call). *Third*, despite Hadnagy's attempts to
 26 contend otherwise, it is indisputable that Def Con spoke "with the reporting parties

1 and Hadnagy.” *See* [finalize with pincites]. And Hadnagy’s dispute on this last point
 2 is irrelevant anyway. “[W]here a report contains a mixture of true and false
 3 statements, a false statement (or statements) affects the ‘sting’ of a report only when
 4 ‘significantly greater opprobrium’ results from the report containing the falsehood
 5 than would result from the report without the falsehood.” *Mohr*, 153 Wash. 2d at 826.
 6 The Transparency Report’s “sting” is that Hadnagy committed multiple Code of
 7 Conduct violations, not whether Def Con talked to him. To the extent Hadnagy
 8 contends the Transparency Report caused “significantly greater opprobrium” because
 9 of the “false” assertion that Def Con talked to him, he was obligated to furnish proof
 10 of this and failed to do so. *See id.*

11 Hadnagy does not deny that his behavior, as set forth in the Motion, violated
 12 the Code of Conduct. Instead, he claims that the Transparency Report is false because
 13 it was capable of being understood as implying *sexual* misconduct. ECF 98 at 25:1–
 14 27:16. This argument is baffling because the Court has already ***explicitly rejected***
 15 ***it***. *See* ECF 53 at 10–11; ECF 83 at 24:1–13. Plus, Def Con provided extensive
 16 evidence that Hadnagy *did* engage in sexual misconduct (*see* ECF 83 at 33:12–24),
 17 and Hadnagy doesn’t even attempt to dispute this evidence. Instead, he purports to
 18 rely on Def Con’s pre-2022 internal discussions about the nature of Hadnagy’s
 19 misconduct and whether it was sexual. *See* ECF 98 at 18:2–19:10.³ Def Con had an
 20 incomplete picture of Hadnagy’s full misconduct in these pre-2022 internal
 21 discussions. Given the evidentiary record now, a reasonable juror could only conclude
 22 that Hadnagy engaged in sexual misconduct—so, even if the Transparency Report
 23 implies as much, it’s true and thus not defamatory.

24 **B. The Transparency Update is true and thus not defamatory.**

25 ³ Def Con objects to ECF 98 at 18:7–13 as inadmissible testimony calling for
 26 speculation and a legal conclusion. Def Con properly preserved its objection to form.
See ECF 101 at 252.

1 Hadnagy also fails to refute the truthfulness of the Transparency Update,
2 which provides:

3 During our investigation we spoke directly with Mr. Hadnagy about
4 claims of his violations of our Code of Conduct. He confirmed his
5 behavior, and agreed to stop. Unfortunately, the behavior did not stop.
6 ECF 84 at 586.

7 Hadnagy again argues that Def Con did not actually speak with him, but this
8 argument fails factually and legally for the reasons Section II.A. discusses above. *See*
9 ECF 98 at 29:12–19. Hadnagy additionally argues that he did not engage “in any
10 wrongful conduct,” but there is no dispute he did the things Reynolds said and that
11 he did not stop his actions after agreeing to. *See* ECF 83 at 31:1–33:2. Hadnagy just
12 thinks he was justified, but there isn’t a dispute over what he did.

13 Hadnagy admitted to harassing Reynolds, in violation of Def Con’s Code of
14 Conduct, and agreed to stop. He did not. The Transparency Update is true.

15 **III. Hadnagy has not made a prima facie case of fault.**

16 Additionally, Hadnagy must prove that Def Con was negligent in publishing
17 the Transparency Report—i.e., that “the defendant knew or, in the exercise of
18 reasonable care, should have known that the statement was false.” *Haueter v. Cowles*
19 *Pub. Co.*, 61 Wash. App. 572, 580, 811 P.2d 231, 236 (1991). No reasonable juror could
20 find that Def Con acted negligently based on the information that was available to it,
21 including the September 7, 2021, call and Hadnagy’s acknowledgment of his conduct
22 to Wyler. *See* ECF 83 at 34:11–35:7. And discovery has confirmed that Def Con was
23 absolutely right about Hadnagy. *See id.* at 35:8–36:9.

24 For all the reasons listed in Def Con’s Motion, no reasonable juror could find
25 that Def Con “knew or should have known” that any of the statements in the
26 Transparency Report or Transparency Update were false. *See* ECF 83 at 34:5–36:4.
The evidence available at the time showed that Hadnagy had committed multiple,

1 severe acts of harassment; discovery has further confirmed that Hadnagy did in fact
2 commit those acts, with Hadnagy admitting to his behavior; and Hadnagy has offered
3 no evidence to the contrary even with the benefit of extensive discovery, and despite
4 his affirmative obligation to make a prima facie case on summary judgment.

5 **CONCLUSION**

6 For the foregoing reasons, Defendants respectfully request that the Court
7 grant summary judgment and dismiss this suit with prejudice.

8
9 DATED this 21st day of March 2025.

10 **PERKINS COIE LLP**

11 I certify that this memorandum contains
12 4,189 words, in compliance with the
13 Local Civil Rules.

s/ David A. Perez

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DEFENDANTS' REPLY IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT – 19 (No. 2:23-cv-
01932-BAT)

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